

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FINJAN SOFTWARE, LTD., an Israel corporation,
Plaintiff-Counterdefendant,
v.
SECURE COMPUTING CORPORATION,
a Delaware corporation, CYBERGUARD,
CORPORATION, a Delaware corporation,
WEBWASHER AG, a German corporation
and DOES 1 THROUGH 100,
Defendants-Counterclaimants.

PLAINTIFF'S MOTION TO STRIKE SECURE COMPUTING CORPORATION'S, CYBERGUARD CORPORATION'S AND WEBWASHER AG'S AFFIRMATIVE DEFENSE OF UNENFORCEABILITY AND DISMISS SECURE COMPUTING CORPORATION'S AND WEBWASHER AG'S COUNTERCLAIM OF UNENFORCEABILITY

Plaintiff Finjan Software, Ltd. (“Finjan”) hereby moves this Court for entry of an Order, pursuant to Federal Rules of Civil Procedure 8(a), 9(b), 12(b)(6) and 12(f), striking Defendants Secure Computing Corporation’s, Cyberguard Corporation’s, and WebWasher AG’s affirmative defense of unenforceability and dismissing Secure Computing Corporation’s and WebWasher AG’s counterclaim of unenforceability. The grounds upon which Finjan makes this motion are set forth in Finjan’s Opening Brief in support of this motion, filed contemporaneously herewith.


A proposed Order is attached hereto as Exhibit A.

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Dated: August 15, 2006
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE
CERTIFICATE OF SERVICE

I, Philip A. Rovner, hereby certify that on August 15, 2006, the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following; that the document was served on the following counsel as indicated; and that the document is available for viewing and downloading from CM/ECF.

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EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FINJAN SOFTWARE, LTD., an Israel corporation,)	
)	
Plaintiff-Counterdefendant,)	C. A. No. 06-369-GMS
)	
v.)	
)	
SECURE COMPUTING CORPORATION, a Delaware corporation, CYBERGUARD, CORPORATION, a Delaware corporation, WEBWASHER AG, a German corporation and DOES 1 THROUGH 100,)	
)	
Defendants-Counterclaimants.)	

ORDER

WHEREAS, Plaintiff Finjan Software, Ltd. ("Plaintiff") hereby moves this Court for entry of an Order, pursuant to Federal Rules of Civil Procedure 8(a), 9(b), 12(b)(6) and 12(f), striking Defendants Secure Computing Corporation's, Cyberguard Corporation's, and WebWasher AG's affirmative defense of unenforceability and dismissing Secure Computing Corporation's and WebWasher AG's counterclaim of unenforceability.

WHEREAS, the Court has considered the parties' positions and arguments with respect to the motion, and finds that Plaintiff is entitled to the relief it seeks.

THEREFORE, IT IS HEREBY ORDERED that Plaintiff's motion is GRANTED.

Accordingly,

1. Defendants Secure Computing Corporation's, Cyberguard Corporation's, and WebWasher AG's affirmative defense of unenforceability (D.I. 14, Answer and Counterclaims ¶¶ 18-19) is hereby STRICKEN;

2. Secure Computing Corporation's and WebWasher AG's counterclaim of unenforceability (D.I. 14, Answer and Counterclaims ¶¶ 28&30) is hereby DISMISSED.

Dated: _____
United States District Judge